



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2012-0769; FRL-9901-81-Region 3]

#### **Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Determinations of Attainment of the 1997 Annual Fine Particulate Standards for the Liberty-Clairton Nonattainment Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is making two separate and independent determinations regarding the Liberty-Clairton, Pennsylvania 1997 annual fine particulate (PM<sub>2.5</sub>) nonattainment area (the Liberty-Clairton Area). First, EPA is determining that the Liberty-Clairton Area attained the 1997 PM<sub>2.5</sub> annual national ambient air quality standards (NAAQS) by the applicable attainment date, December 31, 2011. This determination is based on quality assured and certified ambient air quality data for the 2009-2011 monitoring period. Second, EPA is determining that the Liberty-Clairton Area has continued to attain the 1997 annual PM<sub>2.5</sub> NAAQS, based on quality-assured and certified ambient air quality data for the 2010-2012 monitoring period. The latter “clean data determination” suspends the requirement for the Liberty-Clairton Area to submit an attainment demonstration, reasonably available control measures (RACM), reasonable further progress (RFP), and contingency measures related to attainment of the 1997 annual PM<sub>2.5</sub> NAAQS for so long as the area continues to attain the 1997 annual PM<sub>2.5</sub> NAAQS. These determinations do not constitute a redesignation to attainment. The Liberty-Clairton Area will remain designated nonattainment for the 1997 annual PM<sub>2.5</sub> NAAQS until such time as EPA determines that the Liberty-Clairton Area meets the Clean Air Act (CAA) requirements for redesignation to attainment, including an approved maintenance plan. These actions are being

taken under the CAA.

**DATES:** This final rule is effective on [insert date 30 days from date of publication].

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2012-0769. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

**FOR FURTHER INFORMATION CONTACT:** Maria A. Pino, (215) 814-2181, or by e-mail at [pino.maria@epa.gov](mailto:pino.maria@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The Liberty-Clairton Area is comprised of the boroughs of Lincoln, Glassport, Liberty, and Port Vue and the City of Clairton, all in Allegheny County, Pennsylvania. *See* 40 CFR 81.339. The Liberty-Clairton Area is surrounded by, but separate and distinct from, the Pittsburgh-Beaver Valley PM<sub>2.5</sub> nonattainment area.

On July 23, 2013 (78 FR 44070), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. In the July 23, 2013 rulemaking action, EPA proposed to

determine that the Liberty-Clairton Area attained the 1997 annual PM<sub>2.5</sub> NAAQS by its attainment date, December 31, 2011. EPA also proposed to make a clean data determination, finding that the Liberty-Clairton Area has continued to attain the 1997 annual PM<sub>2.5</sub> NAAQS. No comments were received on the July 23, 2013 NPR.

## **II. Summary of Rulemaking Actions**

These actions do not constitute a redesignation of the Liberty-Clairton Area to attainment for the 1997 annual PM<sub>2.5</sub> NAAQS under CAA section 107(d)(3). Neither determination of attainment involves approving a maintenance plan for the Liberty-Clairton Area, nor determines that the Liberty-Clairton Area has met all the requirements for redesignation under the CAA, including that the attainment be due to permanent and enforceable measures. Therefore, the designation status of the Liberty-Clairton Area will remain nonattainment for the 1997 annual PM<sub>2.5</sub> NAAQS until such time as EPA takes final rulemaking action to determine that the Liberty-Clairton Area meets the CAA requirements for redesignation to attainment.

### **A. Determination of Attainment by the Attainment Date**

Pursuant to section 188(b)(2) of the CAA, EPA is making a determination that the Liberty-Clairton Area attained the 1997 annual PM<sub>2.5</sub> NAAQS by the applicable attainment date, December 31, 2011. This determination is based upon quality-assured and certified ambient air monitoring data for the 2009-2011 monitoring period that shows the area has monitored attainment of the 1997 PM<sub>2.5</sub> annual NAAQS as of its attainment date. The effect of this final determination of attainment by the Liberty-Clairton Area's attainment date is to discharge EPA's obligation under CAA section 181(b)(2) to determine, based on the Liberty-Clairton Area's air

quality as of the attainment date, whether the area attained the standard.

## **B. “Clean Data” Determination of Attainment**

EPA is also making a determination that the Liberty-Clairton Area continues to attain the 1997 annual PM<sub>2.5</sub> NAAQS. This “clean data” determination is based upon quality assured and certified ambient air monitoring data that show the area has monitored attainment of the 1997 annual PM<sub>2.5</sub> NAAQS for the 2010-2012 monitoring period. As a result of this determination, the requirement for the Liberty-Clairton Area to submit an attainment demonstration, RACM, RFP, and contingency measures related to attainment of the 1997 annual PM<sub>2.5</sub> NAAQS shall be suspended for so long as the area continues to attain that NAAQS.<sup>1</sup>

## **C. EPA’s Analysis of the Relevant Air Quality Data**

Consistent with the requirements contained in 40 CFR part 50, EPA has reviewed the annual PM<sub>2.5</sub> ambient air quality monitoring data for the 2009-2011 and 2010-2012 monitoring periods for the Liberty-Clairton Area, as recorded in EPA’s Air Quality System (AQS) database. On the basis of that review, EPA has concluded that the Liberty-Clairton Area attained the 1997 annual PM<sub>2.5</sub> NAAQS by its attainment date, based on data for the 2009-2011 monitoring period. EPA has also concluded that the Liberty-Clairton Area continues to attain, based on data for the 2010-2012 monitoring period.

In the Technical Support Document (TSD) prepared for this action, EPA has evaluated the air quality data for the Liberty-Clairton Area. EPA’s review of the data indicates that the Liberty-

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<sup>1</sup> Even though the requirements are suspended, EPA is not precluded from acting upon these elements at any time if submitted to EPA for review and approval. On June 17, 2011, the Commonwealth of Pennsylvania submitted a SIP revision for the Liberty-Clairton Area to EPA for review and approval. On November 7, 2011 (76 FR 68699), EPA proposed approval, with one condition, of Pennsylvania’s SIP revision for the Liberty-Clairton Area.

Clairton Area has met the 1997 annual PM<sub>2.5</sub> NAAQS. For details, please refer to EPA's TSD, which can be viewed at <http://www.regulations.gov>, Docket ID No. EPA-R03-OAR-2012-0769.

### **III. Final Action**

EPA is making two separate and independent determinations regarding the Liberty-Clairton Area. First, pursuant to section 188(b)(2) of the CAA, EPA is making a determination that the Liberty-Clairton Area has attained the 1997 annual PM<sub>2.5</sub> NAAQS by its attainment date, December 31, 2011. Second, EPA is making a determination that the Liberty-Clairton Area is attaining the 1997 annual PM<sub>2.5</sub> NAAQS, based on quality assured and certified ambient air monitoring data for the 2010-2012 monitoring period. This final determination suspends the requirements for the Liberty-Clairton Area to submit an attainment demonstration and associated RACM, RFP plan, contingency measures, and any other planning requirements related to attainment of the 1997 annual PM<sub>2.5</sub> NAAQS for so long as the area continues to attain the 1997 annual PM<sub>2.5</sub> NAAQS. These determinations do not constitute a redesignation to attainment. The Liberty-Clairton Area will remain designated nonattainment for the 1997 annual PM<sub>2.5</sub> NAAQS until such time as EPA determines that the Liberty-Clairton Area meets the CAA requirements for redesignation to attainment, including an approved maintenance plan. The rationale for EPA's action is explained in the NPR and will not be restated here. No public comments were received on the NPR.

### **IV. Statutory and Executive Order Reviews**

#### **A. General Requirements**

This action, which makes determinations of attainment based on air quality, will result in the suspension of certain Federal requirements and/or will not impose any additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally

permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rulemaking action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

## **B. Submission to Congress and the Comptroller General**

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

## **C. Petitions for Judicial Review**

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This rulemaking action, determining that the Liberty-Clairton Area has attained the 1997 annual PM<sub>2.5</sub> NAAQS, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: September 24, 2013

W. C. Early, Acting  
Regional Administrator,  
Region III.

40 CFR part 52 is amended as follows:

## PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

### Subpart NN—Pennsylvania

2. Section 52.2056 is amended by adding paragraph (j) to read as follows:

#### **§ 52.2056 Determinations of attainment.**

\* \* \* \* \*

(j) EPA has determined, based on quality-assured air monitoring data for 2009-2011, that the Liberty-Clairton, PA fine particle (PM<sub>2.5</sub>) nonattainment area attained the 1997 annual PM<sub>2.5</sub> national ambient air quality standards (NAAQS) by the applicable attainment date of December 31, 2011. Therefore, EPA has met the requirement of CAA section 188(b)(2) to determine, based on the area's air quality as of the attainment date, whether the area attained the 1997 annual PM<sub>2.5</sub> NAAQS.

3. Section 52.2059 is amended by adding paragraph (i) to read as follows:

#### **§ 52.2059 Control strategy: Particulate matter.**

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(i) Determination of Attainment. EPA has determined, as of [Insert date of publication], based on quality-assured ambient air quality data for 2009 to 2011 and 2010 to 2012 ambient air quality data, that the Liberty-Clairton, PA nonattainment area has attained the 1997 annual fine particle (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS). This determination suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other

planning SIPs related to attainment of the standard for as long as this area continues to meet the 1997 annual PM<sub>2.5</sub> NAAQS. If EPA determines, after notice-and-comment rulemaking, that this area no longer meets the 1997 annual PM<sub>2.5</sub> NAAQS, the corresponding determination of attainment for that area shall be withdrawn.

[FR Doc. 2013-25040 Filed 10/24/2013 at 8:45 am; Publication Date: 10/25/2013]